

APPROVED
ZONING BOARD OF APPEALS
MINUTES OF MEETING
MAY 8, 2023

The Regular Meeting of the Zoning Board of Appeals of the Town of Clay, County of Onondaga, State of New York, was held at the Clay Town Hall, 4401 New York State Route 31, Clay, New York on May 8, 2023. Chairman Wisnowski called the meeting to order at 6:00 P.M. and upon the roll being called the following were:

PRESENT:	Edward Wisnowski, Jr	Chairman
	Luella Miller	Deputy Chairperson
	Karen Liebi	Member
	Ryan Frantzis	Member
	Vivian Mason	Member
OTHERS		
PRESENT:	Robert Germain	Attorney
	Chelsea Clark	Secretary
	Mark Territo	Commissioner of Planning & Development
ABSENT:	None	

All present participated in the Pledge of Allegiance.

MOTION made by Mrs. Mason that the Minutes of the meeting of April 10, 2023, be accepted as submitted. Motion was seconded by Mr. Frantzis. *Unanimously carried.*

MOTION made by Chairman Wisnowski for the purpose of the New York State Environmental Quality Review (SEQR) all new actions tonight will be determined to be a Type II, and will be given a negative declaration, unless otherwise advised by our attorney. Motion was seconded by Mrs. Liebi. *Unanimously carried.*

OLD BUSINESS:

Case #1868 – Chick-fil-A, Inc., 3920 Brewerton Road and 110 East Taft Road, Tax Map #118.-01-01.1 and 118.-01-02.0.:

The applicant is requesting the following Area Variances pursuant to Sections: 230-16 E.(4)(b)[1] Front Yard - a reduction in the front yard setback from the property line from 50 feet to 8.5 feet, to allow for the principal structure; 230-19 A.(5) Principal Structure - a reduction in the highway overlay on Route 11, for a principal structure, from 140 feet to 64.8 feet to allow for a Chick-fil-A restaurant building; 230-19 A.(5) Parking Area - a reduction in the highway overlay on South Bay Road from the required 70 feet to 55.3 feet to allow for parking; 230-16 E.(5)(a) Perimeter Landscape - a reduction in the south perimeter landscape strip from 15 feet to 8.9 feet for a canopy; 230-16 E.(4)(b)[2][a] Side Yard Minimum - a reduction in the north side yard setback from 25 feet to 4.8 feet for the principal structure; 230-16 E.(5)(a) Perimeter Landscape Strip - a reduction in the north perimeter landscape strip from 15 feet to 0 feet; 230-16 E.(5)(a) Perimeter Landscape Strip - a reduction in the south perimeter landscape strip from 15 feet to 0 feet; and 230-16 E.(4)(b)[2][b] Total Both Sides - a 50 foot combining of both sides required with 34.2 feet proposed. The property is located in a LuC-2 Limited Use District for Restaurants.

The proof of publication was read by the secretary at the May 9, 2022, meeting.

Chairman Wisnowski made a motion to adjourn Case #1868 to the June 12, 2023, Zoning Board of Appeals meeting, per the applicant’s request.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1914 – Stanley J. Moskal, 4089 Sweet Gum Lane, Tax Map #055.-11-13.0.:

The applicant is seeking an Area Variance, pursuant to Section 230-13 E.(4)(b)[2] – Side Yard Minimum, for a reduction in the right/north side yard setback from 10 feet to 6 feet to allow for an attached garage addition. The property is located the R-7.5 One-Family Residential District.

The proof of publication was read by the secretary at the April 10, 2023, meeting.

The applicant was present.

Chairman Wisnowski read the Findings as follows:

1. This application seeking an area variance is properly classified as a Type II Action for the purpose of SEQRA compliance. No further action is required.
2. The Zoning Board of Appeals is in receipt of letters and electronic communications from neighboring homeowners in opposition to the project.
3. We find the Application, if granted, would in fact create an undesirable change in the character of the neighborhood. The ten (10) foot setback is very small to begin with and lessening it to six (6) feet would set the new garage too close to the neighboring property.
4. We find the proposed reduction from ten (10) feet to six (6) feet is substantial. The reduction is for approximately 40% of the coverage. This is certainly substantial.
5. We find the proposal, if granted could have an adverse effect on the local environment. The extension would not fit visually and locating a shop with machinery close to the neighbor could create noise and pollutant issues.
6. We find the alleged difficulties are clearly self-created. The application failed this part of the variance test.

Chairman Wisnowski read the Decision as follows:

The Zoning Board of Appeals hereby adopts these findings and finds the application before the Board failed the legal requirements necessary to grant the variance requested. Accordingly, this board moves the adoption of a resolution denying the Variance requested. Motion was seconded by Mrs. Liebi.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- against	
	Mrs. Mason	- in favor	<i>Motion Carried.</i>

Case #1915 – Splash Car Wash 4S-Buckley LLC, 7190-7092 Buckley Road, Tax Map #117.-02-47.0.:

The applicant is seeking Area Variances, pursuant to Section 230-16 C.(4)(a)[2][a] for a reduction in the front yard setback from 100 feet to 65 feet; Section 230-16 C.(4)(a)[1][b] for a reduction in the front Perimeter Landscape Strip from 30 feet to 1 foot; and Section 230-16 C.(4)(a)[1][b] for a reduction in the rear Perimeter Landscape Strip from 30 feet to 19 feet. This is to allow for demolition of 3 existing buildings and development of a new Splash Car Wash facility with drive aisles and pay island lane. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary at the April 10, 2023, meeting.

Chairman Wisnowski made a motion to adjourn Case #1915 to the June 12, 2023, Zoning Board of Appeals meeting, per the applicant’s request.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1916 – Gardenview Diner/Nik Loannidis, 3564 Route 31, Tax Map #052.-02-09.1.:

The applicant is seeking Area Variances, pursuant to Section 230-19 A.(5) - Designated Highway Setback - a reduction in the front yard setback from 165 feet to 137 feet; Section 230-16 C.(4)(a)[2][b] - Side Yard Setback - a reduction in the east side yard setback from 75 feet to 70 feet; Section 230-16 C.(4)(a)[2][b] - Side Yard Setback - a reduction in the west side yard setback from 75 feet to 22 feet; Section 230-21 E.- Required Parking - a reduction in the required 75 parking spaces to 60 parking spaces; Section 230-19 A.(5) - Designated Highway Setback - a reduction in the front yard setback from 90 feet to 59 feet; and Section 230-16 C.(4)(a)[1][b] - Site Perimeter Landscape Strip – a reduction in the Perimeter Landscape Strip from 30 feet to 12 feet. This is to allow construction of a 3,200 square foot diner and associated parking. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary at the April 10, 2023, meeting.

The applicant was present as well as Scott Freeman of Keplinger Freeman Associates. Mr. Freeman stated they have removed the outdoor patio seating from their plan, therefore the requested area variances are correct and the applicant would like to move forward.

Chairman Wisnowski asked Mr. Freeman if the applicant has an agreement with the owner of the private road.

Mr. Freeman stated there is nothing in writing and functionally, the proposed plan works without private road access.

Commissioner Territo added that he does not see how the site would function without access to the private road.

Mrs. Liebi stated it would create great restrictions without access to the private road, as exiting onto Route 31 in this area is already challenging.

Mr. Freeman stated that the setbacks proposed are based on Route 31, not the private road.

Chairman Wisnowski stated he would not be comfortable approving the area variances as the applicant advised they were working on an agreement with the owner of the private road, and no such agreement has been provided.

Mr. Territo asked the applicant if they received any comments from the State Department of Transportation.

Mr. Freeman stated they submitted their plan to the DOT but have not received any comments.

Chairman Wisnowski asked if the applicant would like more time to try to provide an agreement with the owner of the private road for access to the site.

The applicant would like additional time to work on an agreement with the private road owner.

Motion was made by Mrs. Liebi to adjourn Case #1916 to the June 12, 2023, Zoning Board of Appeals meeting, per the applicant's request. Motion was seconded by Mr. Frantzis.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

NEW BUSINESS:

Case #1913 – Moyers Corners Fire Department, 7697 Morgan Road, Tax Map #086.-19-04.1.:

The applicant is seeking an Area Variance, pursuant to Section 230-22 C.(1) – Major Sign Standards: for a reduction in the front yard setback from 25 feet to 0 feet; an increase in the height of a sign from the allowed 6 feet to 9 feet 1 inch; and an increase in the square footage of a sign from the allowed 24 square feet to 39 square feet. This is to allow a freestanding sign. The property is located in the RA-100 Residential Agricultural District.

Chairman Wisnowski recused himself as he is an active member of Moyers Corners Fire Department.

The proof of publication was read by the secretary.

David Razzante was present on behalf of Moyers Corners Fire Department.

Deputy Chairperson Miller asked Mr. Razzante to explain their request for an Area Variance.

Mr. Razzante explained they are looking to create a duplicate sign of their current signage at their Route 57 fire station, it would be an LED, scrolling sign used to display important messages such as but not limited to recruitment information and Town messages.

Deputy Chairperson Miller asked Mr. Razzante to address the standards of proof.

Mr. Razzante addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variance will create an undesirable change to the character of the neighborhood.
2. The applicant does not believe there is any feasible method other than the requested Area Variance.
3. The applicant does believe the requested Area Variance to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for Area Variance is self-created.

Deputy Chairperson Miller asked if there were any further comments or questions from the Board.

Mrs. Liebi asked if it would be the exact same as the one on Route 57.

Mr. Razzante confirmed it would be exactly the same.

Deputy Chairperson Miller asked Commissioner Territo if he had any comments or questions and he had none.

Deputy Chairperson Miller asked if anyone in the audience had any questions or comments and there were none.

Deputy Chairperson Miller asked for those in favor of granting the Area Variance and those opposed to granting the Area Variance and there were none.

MOTION was made by Mrs. Mason in Case #1913 approve the Area Variance as requested with the condition it be in substantial compliance with Exhibit “A”. Motion was seconded by Mr. Frantzis.

Roll Call:	Deputy Chairperson Miller	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1917 – Amerco Real Estate, 8015 Oswego Road, Tax Map #080.-01-01.0.:

The applicant is seeking an Area Variance, pursuant to Section 230-16 C.(5)(b)[4][b] – Maximum Height, for an increase in the height of a structure from the allowed 35 feet to 41 feet 10 inches. This is to allow for expansion of the existing UBox operation to help provide a service to upcoming businesses and residences moving to our area. The property is located in the RC-1 Regional Commercial District.

The proof of publication was read by the secretary.

Brett Lindsey, 8015 Oswego Road, was present on behalf of the applicant.

Chairman Wisnowski asked Mr. Lindsey to explain their request for an Area Variance.

Mr. Lindsey stated they are looking for an area variance to be able to add additional space for 5x8x8 foot storage boxes with the intent to stack them four boxes high.

Chairman Wisnowski asked Mr. Lindsey to address the Standards of Proof.

Mr. Lindsey addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variance will create an undesirable change to the character of the neighborhood as it would match the existing appearance.
2. The applicant does not believe there is any feasible method other than the requested Area Variance as the rear of the property is on a wetland.
3. The applicant does believe the requested Area Variance to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for Area Variance is self-created.

Chairman Wisnowski asked if there were any further comments or questions from the Board.

Deputy Chairperson Miller asked what the roofline height currently is and what the proposed height would be.

Mr. Lindsey stated one part of the roof is 18 feet and the other is 24 feet.

Chairman Wisnowski asked if the applicant had a drawing showing the elevation and the proposed height the boxes would be in comparison to the existing roof height.

Mr. Lindsey stated he could provide a rendering of the outside of the building.

Chairman Wisnowski stated the board would like to see the drawing prior to making a decision.

MOTION was made by Chairman Wisnowski to adjourn Case #1917 to the June 12, 2023, Zoning Board of Appeals meeting. Motion was seconded by Deputy Chairperson Miller.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

Case #1918 – Shannon Mulderig, 3916 Merganser Drive, Tax Map #054.-12-09.0.:

The applicant is seeking Area Variances pursuant to Section 230-18 H.(1) – Minor Modifications Affecting One Property, for a reduction in the front yard setback from 25 feet to 8 feet and Section 230-20 B.(2)(b) for an increase in the height of a fence in a front yard from the allowed 2 1/2 feet to 6 feet on a corner lot (a corner lot has two front yards). This is to allow for fence. The property is located in the PDD Planned Development District.

The proof of publication was read by the secretary.

The applicant was present.

Chairman Wisnowski asked the applicant to explain her request for Area Variances.

Ms. Mulderig explained this is their first home and being on a corner lot, she would like to make the most of the space. She is looking to fence in their yard for safety of their dog and privacy for family.

Chairman Wisnowski asked the applicant to address the Standards of Proof.

Ms. Mulderig addressed the Standards of Proof:

1. The applicant does not believe the requested Area Variances will create an undesirable change to the character of the neighborhood, adding that it will not impair traffic view.
2. The applicant does not believe there is any feasible method other than the requested Area Variances as it is a corner lot.
3. The applicant does believe the requested Area Variances to be substantial.
4. The applicant does not believe there will be any adverse effect to the neighborhood.
5. Yes, the need for Area Variances is self-created.

Chairman Wisnowski asked if there were any further comments or questions from the Board and there were none.

Chairman Wisnowski noted there was a letter of concern provided by a resident in regard to a fire hydrant. Chairman Wisnowski stated, as a member of the local Fire Department, he looked at this and saw no issue.

Chairman Wisnowski asked Commissioner Territo if he had any comments or questions and he had none.

Chairman Wisnowski asked if anyone in the audience had any questions or comments and there were none.

Chairman Wisnowski asked for those in favor of granting the Area Variance and those opposed to granting the Area Variance and there were none.

MOTION was made by Mr. Frantzis in Case #1918 to approve the Area Variances as requested with the condition it be in substantial compliance with Exhibit “A”. Motion was seconded by Deputy Chairperson Miller.

Roll Call:	Chairman Wisnowski	- in favor	
	Deputy Chairperson Miller	- in favor	
	Mrs. Liebi	- in favor	
	Mr. Frantzis	- in favor	
	Mrs. Mason	- in favor	<i>Unanimously Carried.</i>

There being no further business, Chairman Wisnowski adjourned the meeting at 6:33 P.M.



Chelsea L. Clark, Secretary
Zoning Board of Appeals
Town of Clay